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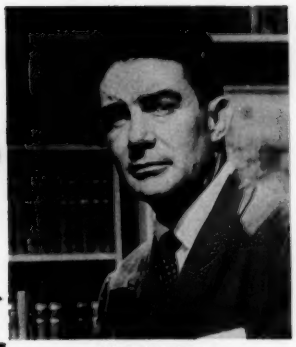

DAN SMOOT

Urban Renewal—Part One

SYNOPSIS

Here is a synopsis of the entire contents of this *Report:* Urban Renewal, although authorized basically in the National Housing Act of 1949, and specifically enlarged in scope by amendments to the Housing Acts of 1954, 1956, and 1957, did not become a vigorously promoted nationwide program until late 1957.

The reason: Urban Renewal is not slum clearance. Urban Renewal is a federally financed program of city planning which requires city governments to seize homes and other private property from some citizens and resell them, at below cost, to real estate promoters and other private citizens for developments that the city planners consider desirable.

Under the ancient, but awesome, right of eminent domain, city governments do not have the power to take private real estate from one citizen for the profit of another citizen. Before 1954, it was apparent that if state legislatures passed laws giving cities such power, the laws would be unconstitutional.

But in November, 1954, the Supreme Court in an Urban Renewal case, said that Congress and state legislatures can do anything they like to the private property of private citizens as long as they claim they are doing it for public good.

Since that court decision, Urban Renewal has become a major national movement with frightful implications and dangers. Congressman Bruce Alger has compiled a file which reveals these dangers. The Alger file will be reviewed next week in "Urban Renewal — Part Two."

That is a synopsis of this entire issue. The full *Report* follows:

"Authority" for Urban Renewal

Title I of the Housing Act of 1949 (approved July 15, 1949) is the principal federal law authorizing federal aid to the clearance and redevelopment of slums.

The Housing Act of 1954 (approved August 2, 1954) broadened the provisions of

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Title I to authorize federal aid for prevention of the spread of slums and urban blight through the rehabilitation and conservation of blighted and deteriorating areas, in addition to the clearance and redevelopment of slums.

The Housing Act of 1956 (approved August 7, 1956) again liberalized Title I of the Housing Act of 1949. The 1956 Act authorized relocation payments to individuals, families, and business concerns for moving expenses and property loss resulting from their displacement by an urban renewal project. The 1956 Act also authorized federal advances to communities for preparing urban renewal plans.

The Housing Act of 1957 (approved July 12, 1957) increased the size of capital grants which the federal government can make to communities for urban renewal. The 1957 Act also greatly increased the mortgage-purchase authority of "Fannie Mae" — the Federal National Mortgage Association, which buys FHA insured mortgages from private lenders.

The over-all agency in charge of over-all administration of the national "housing" laws is the Housing and Home Finance Agency, which is divided into four major "constituent agencies":

(1) the Federal Housing Administration — FHA — which administers the government's mortgage insurance program;

(2) the Public Housing Administration — PHA — which administers the government-built and government-operated low-rent "housing projects";

(3) the Urban Renewal Administration — URA — which administers generally federal aid to slum clearance and urban renewal; and

(4) the Federal National Mortgage Association — FNMA, known as "Fannie Mae," which buys FHA-insured mortgages from private lenders.

Thus, it is apparent that federal "authority" for Urban Renewal has been on the federal statute books since 1949.

The statute was first specifically amended to promote Urban Renewal in 1954. The statute was again amended for this specific purpose in 1956 and 1957; but the hue and cry for Urban Renewal, which can now be heard in every village and city in the land, did not swell to nationwide proportions until late 1957 and early 1958.

Why? The Constitution of the United States — even after 25 years of new-fair-deal-modern-republican sapping — still had enough vigor to stand in the way of Urban Renewal.

Under the old slum clearance provisions of the National Housing Act, a community could participate by using its normal police powers — its right of eminent domain — to condemn and take over certain properties that were substandard, unsanitary, and harmful to public health.

But Urban Renewal is not slum clearance. It may — usually does — involve a certain amount of slum clearance; but, primarily, Urban Renewal is city planning by the city government, with the advice (and control) and financial help of the federal government. The city government planners decide that a whole area of a city should be redesigned — that everything in the area should be rebuilt, or torn down and replaced, with something that will fit in with the city planners' long-range scheme for the whole city.

In nearly every case, there will be in the area some well-kept homes and private businesses housed in safe and adequate buildings; but they all must be replaced so that the whole area will be in keeping with what the governmental planners imagine will make the area more attractive.

If a citizen owns a home or piece of business property that complies with all laws and standards of health, sanitation, and use, how can the city force him to sell his home or property to some other citizen or real-estate promoter who

promises to put up something that the city planners will like better than they like the citizen's home or business?

A city does not have that much power over citizens — unless the state legislature grants the power. If a state legislature passed a law giving municipalities power to seize one citizen's property for sale to another citizen, the law would clearly be unconstitutional, wouldn't it?

These were the constitutional considerations which held Urban Renewal back — until 1954. In 1954, the Supreme Court, in an Urban Renewal case, held that Congress and the State legislatures could use any means they choose, to do anything they like to the private property of private citizens — so long as they claim they are doing it for the public good.

It took a year or two after this Supreme Court decision for State legislatures to pass necessary enabling laws for cities to participate in the federal Urban Renewal program.

This is the principal reason why Urban Renewal, although authorized by Congress in broad outline as early as 1949, is just now becoming a significant nationwide movement.

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The Court's Decision

In 1945, Congress passed the District of Columbia Redevelopment Act authorizing the Commissioners of the District of Columbia to seize privately-owned real estate, condemn it and use the land for public buildings, or condemn it and sell the land to private persons for private development. The official purpose of the act was "to protect and promote the welfare of the inhabitants of the seat of the Government," by eliminating housing conditions which Congress considered "injurious to the public health, safety, morals, and welfare." To achieve this purpose, the act empowered the District Commissioners to employ "all means necessary and appropriate."

The federal agencies involved selected an area of Southwest Washington, D. C. for redevelopment. Some property in the area was run-down and over-crowded. Some consisted of small business establishments and modest, but respectable, homes. The federal agencies condemned all property in the area, because even the clean and respectable places were not as pretty or well-balanced, or something, as the government officials wanted.

Owners of a small department store in the area put up a fight. They brought suit in federal court to enjoin the condemnation of their property. They contended that their property was not a slum and that it was not residential; that their property was not being taken for public use but was being seized for resale to private purchasers for private development; and that the Fifth Amendment protected them from such seizure.

On November 5, 1953, a three-judge Federal District Court in the District of Columbia held the Act legal but tried to narrow its application to slum clearance projects. The Federal Court said:

We have the problem of the area which is not a slum but which is out-of-date, called by the Government "blighted" or "deteriorated...."

We are of opinion that the Congress, in legislating for the District of Columbia, has no power to authorize the seizure by eminent domain of property for the sole purpose of redeveloping the area according to its, or its agents', judgment of what a well-developed, well-balanced neighborhood would be....

The Government says that it has determined that Project Area B in the case at bar is an appropriate area for "redevelopment," that slums exist in that area, and that therefore it may seize the title to all the land in the area, and, having replanned it, sell it to private persons for the building of row houses, apartment houses, commercial establishments, etc. In essence, the claim is that if slums exist the Government may seize, redevelop and sell all the property in any area it may select.... This amounts to a claim on the part of the authorities for unreviewable power to seize and sell whole sections of the city....

It (Project Area B) covers about fifteen square city blocks. It lies within a Census Tract in which slum conditions are said to exist. Its western bound-

ary is an irregular line which runs around lots, encompasses some establishments along a street and excludes others on the same side of the same street. . . . It excludes certain properties; and, under it, certain other properties would be sold back to the present owners or be retained by them.

The key to the plan . . . is the opinion of the Government authorities that residential neighborhoods should be "well-balanced" and that the area should contain housing for all income groups. . . . No acute housing shortage is to be met. In fact the plan provides for no more residents than presently occupy the area. No pressing economic condition . . . is sought to be dealt with by this plan. No purpose of housing for the needy . . . is the motivation. . . .

In sum the purpose of the plan . . . is to create a pleasant neighborhood. . . . The Government is to determine what conditions are pleasant. . . .

Of course the plan as pictured in the prospectus is attractive. In all probability it would enhance the beauty and the livability of the area. If undertaken by private persons the project would be most laudable. It would be difficult to think of a village, town or city in the United States which a group of artists, architects and builders could not improve vastly if they could tear down the whole community and rebuild the whole of it.

But as yet the courts have not come to call such pleasant accomplishments a public purpose which validates government seizure of private property. The claim of Government power for such purposes runs squarely into the right of the individual to own property and to use it as he pleases.

Absent impingement upon rights of others, and absent public use or compelling public necessity for the property, the individual's right is superior to all rights of the Government and is impregnable to the efforts of government to seize it. . . .

One man's land cannot be seized by the Government and sold to another man merely in order that the purchaser may build upon it a better house or a house which better meets the government's idea of what is appropriate or well-designed.

This case went to the Supreme Court on appeal. On November 22, 1954, Justice William O. Douglas delivered the opinion of the Supreme Court, saying:

The power of Congress over the District of Columbia includes all the legislative powers which a state may exercise over its affairs. . . . We deal, in other words, with what traditionally has been known as the police power. . . .

Public safety, public health, morality, peace and quiet, law and order — these are some of the more conspicuous examples of the traditional application of the police power to municipal affairs. Yet they merely illustrate the scope of the power and do not delimit it. . . .

The concept of the public welfare is broad and inclusive. . . . The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. . . . If those who govern the District of Columbia decide that the Nation's capitol should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way. . . .

Once the object is within the authority of Congress, the means by which it will be attained is also for Congress to determine. . . . Appellants argue that this makes the project a taking from one businessman for the benefit of another businessman. But the means of executing the project are for Congress and Congress alone to determine, once the public purpose has been established. . . .

(Appellants) maintain that since their building does not imperil health or safety nor contribute to the making of a slum or a blighted area, it cannot be swept into a redevelopment plan by the mere dictum of the Planning Commission or the Commissioners. (But) . . . The experts concluded. . . . the entire area needed redesigning so that a balanced, integrated plan could be developed for the region. . . .

If owner after owner were permitted to resist these redevelopment programs on the ground that his particular property was not being used against the public interest, integrated plans for redevelopment would suffer greatly. The argument pressed on us is, indeed, a plea to substitute the landowner's standard of the public need for the standard prescribed by Congress.

* * * * *

What Urban Renewal Really Means

With Justice Douglas' decision — saying that Congress in the District of Columbia has unlimited authority to determine what the public good is and unlimited power to use any means whatever to achieve that good, and saying also that individual state legislatures have

the same power over all communities in their states — Urban Renewal was under full steam.

Before this November 22, 1954, Supreme Court decision, citizens in a number of states had contested the constitutionality of state laws empowering municipal governments to seize private property for resale to other private owners in "Urban Renewal" areas. It will do citizens little good to protest such laws any more. Justice Douglas has put them on notice that their city governments can seize their private homes and private business properties whenever the bureaucratic planners in their city hall want to get some federal money for "redeveloping" an area where their properties happen to be.

An American's home is supposed to be his castle. A substantial portion of the Constitution is devoted to the specific aim of protecting citizens in their right to own property and to be secure in the ownership and use of it.

Urban Renewal, fortified by the Supreme Court decision, has destroyed all of those constitutional protections. If you happen to live in a pleasant, well-kept neighborhood, the city planners and city government can condemn the whole neighborhood and convert it into a public park if they want to. They can seize your home and all others in your neighborhood and sell them to some private New York promoter (as was done in Washington, D. C.) for any kind of "Urban Renewal" project the schemers and dreamers can conceive.

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The Lure of Something for Nothing

In a great nation of literate people (where everyone knows that the national greatness resulted from a constitutional system which guaranteed the God-given freedoms of individuals from unnecessary encroachments by their own government) it is hardly credible that such a thing as Urban Renewal could receive respectable public support.

But it does; and that support is growing fast in every section of the country. All over the United States, city and state governments are promoting Urban Renewal, trying to sell the idea to the people in places where there is public resistance — trying to enlarge and speed up the projects where the public is already sold and demanding action.

Even in Texas, which has a reputation among American constitutionalists elsewhere as being a stronghold of conservative constitutionalism (and even in Dallas which is supposed to be *the* stronghold of conservatism in a conservative state) Urban Renewal is being pushed by people who have otherwise distinguished themselves as opponents of big government and socialism and federal meddling with the states.

On August 22, 1957, the "conservative" governor of Texas (Price Daniel) signed the Texas Urban Renewal Law, enlarging the concept of eminent domain to the dimensions required by most Urban Renewal projects — that is, stretching eminent domain to mean that a city government can condemn and take over private homes, or any other real estate, and develop the property for public use, or resell it (at way below acquisition cost) to private developers for uses that conform with the over-all scheme of an Urban Renewal project.

On March 10, 1958, the Mayor of Dallas appointed an Urban Renewal fact-finding committee to consider federally financed slum clearance.

In Dallas — which once distinguished itself as the first and only city in America to develop a major slum-clearance project without federal funds and without stretching the awesome power of eminent domain into the realm of dictatorship — there has been enough citizen opposition to cause the city government to postpone, temporarily, the submission of Urban Renewal plans to a vote of the people. But most of the city fathers and an imposing

array of civic leaders are urging Dallas to develop a "Workable Program" and participate in federal Urban Renewal.

The primary argument used by advocates of Urban Renewal in Dallas, as elsewhere, is that local taxpayers have been paying for Urban Renewal in other cities for a long time, and will continue to pay for such projects in other cities in the future; therefore, it is unrealistic for Dallas not to line up at the trough.

* * * * *

Federal Control

Advocates of federal Urban Renewal insist that there will be no federal control — no federal meddling in local affairs: just munificent federal help, "which we might just as well take, because our refusing to take it won't stop it, and our citizens have to pay for it in other communities anyway."

Section 106 (c) (7) of the Housing Act of 1949 as amended through July, 1957, provides that the Urban Renewal Administrator: "notwithstanding the provisions of any other law, may . . . include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions . . . as he may deem necessary."

Section 109 (a) of the law contains the Davis-Bacon Act provision that the Secretary of Labor has absolute power to set wage scales for all work connected with an Urban Renewal Project.

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How Does Urban Renewal Work

All federal housing officials and most city planning officials rejoiced at the Supreme Court decision of November 22, 1954. They now had "law of the land" in favor of Urban Renewal. The rest would be a simple propaganda job of using the taxpayers' money to propagandize citizens and private groups and cities and states into accepting and promoting Urban Renewal.

Since 1954, federal housing officials have been roaming the land, making public speeches and holding press conferences and meetings with local officials, showing moving pictures and passing out literature lauding the beauties and virtues of Urban Renewal.

One of the most attractive selling pieces for Urban Renewal was published in March, 1958, by the Housing and Home Finance Agency in Washington. An expensive-looking 12-page pamphlet entitled "Aids to Your Community — Programs of the Housing and Home Finance Agency," it is an advertising brochure, simply worded and simply illustrated (for the less sophisticated officials in the provincial cities, you know), telling city fathers exactly how to go about getting Urban Renewal and everything that goes with it:

"Through its regional offices,, the Housing and Home Finance Agency provides a sort of one-stop service station for communities to use these aids. . . .

"When city fathers work up to the stage of transforming a rundown, blighted area through the process of urban renewal, a helping hand is available from the federal government. . . ."

The federal law requires that before this helping hand of the federal government can be extended, the city must present a "Workable Program" — this meaning, an Urban Renewal project that complies with all the specifications of the federal agencies.

This could be a big hurdle. How on earth could lesser planners in the back-country cities draw up something that would satisfy the Great Planners in Washington? And where would they get the money for working out their plans? Well, there is a little federal helping hand extended here, in advance of the big helping hand to come later: The Urban Renewal Administration will advance funds (and brains, too, of course) to pay for surveys and planning work necessary to draw up the Workable Program:

"This planning advance becomes a part of the gross project cost.

"Temporary loans and capital grants to communities follow. With the loan funds as working capital, communities acquire slum land and structures, clear sites and prepare the area for redevelopment. The money also may be used in carrying out public rehabilitation and conservation projects, such as spot clearance, and street, utility, park, and playground improvements.

"Neither loan nor grant funds may be used for actual construction or rehabilitation of structures in project areas. Such financing comes principally from private investment or, where public uses are planned, from the usual sources of municipal or public financing. Cleared project tracts are disposed of at fair value to private enterprise or public bodies."

In other words, the city condemns and buys all property from private citizens in a given area and then sells the property to other private citizens (or back to the original owners) at much less than the city paid for it — with the understanding that the private buyers will build something that the city planners like.

Thus, the major cost in an Urban Renewal project is buying the real estate for a high price and selling it for a low price — in order to make the property available for the kind of development planned.

This is the cost that the federal government assumes:

"Federal grant funds pay most of a project's net cost — the difference between the city's outlay for acquiring, clearing, and otherwise preparing areas, and its receipts from disposition of the land."

The federal share of the "net cost" is two-thirds, if the federal agencies handle all operational details. If the local communities will relieve the federal agencies of these operational details, then the federal agencies will pay three-fourths of the net cost.

One thing which the federal agency requires in the "Workable Program" is that adequate housing be available for all persons evicted from the Urban Renewal area. The munificent federal government offers help here, too:

"For families displaced from urban renewal project areas, there is federal statutory authorization for local public agencies carrying out redevelopment or urban renewal activities to pay individuals up to $100 to offset moving expenses. Business concerns displaced may be paid up to $2500. These outlays are defrayed entirely by the Federal Government."

What if there is no place to move these displaced families to? The federal government will provide:

"When a community seeking long-range improvement through an approved Workable Program has a segment of low-income families unable to afford decent, safe, and sanitary private housing, it may apply for Federal financial aid for low-rent public housing to accommodate them."

The federal government will not only put up the money to build the Housing project but will also provide an annual subsidy to run it.

Let's recap:

The City Fathers get federal money and help in selecting an area they want to take over for Urban Renewal — and for drawing up an acceptable Workable Program for that area.

Using the awesome power of eminent domain, granted by state legislators, the City Fathers condemn all property in that area (whether it be slum or not), forcing the private owners to sell at a fair price.

Then the city fathers get federal money to pay for all land and property in the area.

They can get federal money to move out everyone in the area; and they can get federal money to provide houses for these evicted persons.

They then use federal money to clear the Urban Renewal area so that Urban Renewal can begin. Once the area is cleared, they then sell it to private enterprise for whatever it will bring. The private purchasers are obligated to build something that conforms with the overall plan of the "Workable Program."

Suppose the private purchasers don't have money for the developing which they are supposed to do?

The Federal government helps here also:

"A helping hand is available from the Federal government to stimulate private investment in residential rebuilding and rehabilitation in that (Urban Renewal) area. . . .

"The FHA, under section 220 (of the National Housing Act of 1949, as amended through July, 1957) can insure loans to finance construction of new homes and apartments in an approved urban renewal project area, or for purchase or refinancing of existing houses or apartments that are to be rehabilitated. Section 220 has more liberal provisions than regular FHA loan insurance programs. . . .

"Builders, developers, individual homeowners and investors may apply, through lending agencies, for section 220 mortgage insurance for use in erecting new housing or rehabilitating substandard dwellings in accordance with the urban renewal plan."

* * * * *

The Bruce Alger File

Congressman Bruce Alger (Republican, Texas) has opposed federal housing (which he honestly calls *socialized housing*) ever since he has been in Washington. He is particularly concerned about the Urban Renewal program and its frightful implications — its truly terrifying encroachments upon the freedom of individuals, and the obvious openings for graft and corruption.

When the Mayor of Dallas announced in March, 1958, that an Urban Renewal Fact-Finding Committee had been appointed to consider Urban Renewal in Dallas (the Congressman's home town) Congressman Alger started assembling a file on the subject. He submitted copies of the file (consisting of 51 exhibits) to the Dallas City Council, to members of the Urban Renewal Committee, members of the Real Estate Board — and to interested citizens, as long as the copies lasted. On May 8, 1958, he discussed the material in the *Congressional Record*.

The Bruce Alger file on Urban Renewal contains material which every citizen in America should see and thoughtfully consider.

I will review the file next week, presenting as much of it as possible.

WHO IS DAN SMOOT?

Dan Smoot was born in Missouri. Reared in Texas, he attended SMU in Dallas, taking BA and MA degrees from that university in 1938 and 1940.

In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for the degree of Doctor of Philosophy in the field of American Civilization.

In 1942, he took leave of absence from Harvard in order to join the FBI. At the close of the war, he stayed in the FBI, rather than return to Harvard.

He served as an FBI Agent in all parts of the nation, handling all kinds of assignments. But for three and a half years, he worked exclusively on communist investigations in the industrial midwest. For two years following that, he was on FBI headquarters staff in Washington, as an Administrative Assistant to J. Edgar Hoover.

After nine and a half years in the FBI, Smoot resigned to help start the Facts Forum movement in Dallas. As the radio and television commentator for Facts Forum, Smoot, for almost four years spoke to a national audience giving both sides of great controversial issues.

In July, 1955, he resigned and started his own independent program, in order to give only one side — the side that uses fundamental American principles as a yardstick for measuring all important issues.

If you believe that Dan Smoot is providing effective tools for those who want to think and talk and write on the side of freedom, you can help immensely by subscribing, and encouraging others to subscribe, to *The Dan Smoot Report*.